DOCUMENT RESUME

ED 473 736 EC 309 417

TITLE	Complaint Resolution. Technical Assistance Paper.
INSTITUTION	Florida State Dept. of Education, Tallahassee. Bureau of Instructional Support and Community Services.
REPORT NO	FY-2000-6
PUB DATE	2000-04-00
NOTE	8p.
AVAILABLE FROM	Florida State Dept. of Education, Clearinghouse Information Center, Rm. 628 Turlington Bldg., 325 W. Gaines St., Tallahassee, FL 32399-0400. Tel: 850-488-1879; Fax: 850-487-2679; e-mail: cicbiscs@mail.doe.state.fl.us. For full text: http://www.firn.edu/doe/commhouse.
PUB TYPE	Legal/Legislative/Regulatory Materials (090)
EDRS PRICE	EDRS Price MF01/PC01 Plus Postage.
DESCRIPTORS	*Agency Role; Compliance (Legal); *Conflict Resolution; *Disabilities; Elementary Secondary Education; *Federal Legislation; Legal Responsibility; *Parent Grievances; State Departments of Education; State Regulation; Student Rights; Technical Assistance
IDENTIFIERS	*Individuals with Disabilities Education Act; Mediation

ABSTRACT

This document explains complaint resolution procedures for individuals who file a complaint with the Florida Department of Education (DOE) on behalf of one or more students with disabilities, or one or more parents of students with disabilities, alleging a public agency has violated the educational rights of a student with disabilities under the Individuals with Disabilities Education Act (IDEA), Part B, and the corresponding state regulations. The DOE is required, within 60 days of receipt of a formal complaint to carry out an inquiry, give the complainant an opportunity to provide additional information, review all relevant information and determine if the district/agency has violated a requirement, and provide a written decision to the complainant that addresses each issue presented in the complaint. The document begins by explaining the option of mediation of disputes. It then describes the three levels of action the DOE has developed to address formal complaints: (1) an Early Resolution Agreement; (2) an inquiry resulting in a Bureau Resolution Determination; and (3) an inquiry resulting in a Commissioner's Order. For each level, step-by-step instructions for DOE procedures are provided. Following sections address timelines and extensions for completion of complaint resolution activity and local education agency complaint inquiries. (CR)

Reproductions supplied by EDRS are the best that can be made
from the original document.

ED 473 736

Complaint Resolution
Technical Assistance Paper

Florida State Dept. of Education,
Div. Of Public Schools and Community Education
Bureau of Instructional Support and Community Services

April 2000

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

☑ This document has been reproduced as received from the person or organization originating it.

☐ Minor changes have been made to improve reproduction quality.

• Points of view or opinions stated in this document do not necessarily represent official OERI position or policy.

PERMISSION TO REPRODUCE AND DISSEMINATE THIS MATERIAL HAS BEEN GRANTED BY

A. Duncan

TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

1

EC 309417

BEST COPY AVAILABLE

Complaint Resolution

Sections 300.660 – 300.663 of Title 34 of the Code of Federal Regulations describe the requirements for state complaint procedures. These requirements specify that a formal complaint may be filed with the state education agency (SEA) by any individual or organization that alleges that a public agency has violated the educational rights of a student with disabilities under the Individuals with Disabilities Education Act (IDEA), Part B, and the corresponding state regulations. The SEA is required, within 60 days of receipt of a formal complaint to

1. carry out an inquiry
2. give the complainant an opportunity to provide additional information
3. review all relevant information and determine if the district/agency has violated an IDEA, Part B, requirement
4. provide a written decision to the complainant that addresses each issue presented in the complaint.

The Florida Department of Education (DOE) is designated as the "SEA" for the State of Florida. It is the responsibility of the Bureau of Instructional Support and Community Services (BISCS) to ensure that formal complaints are appropriately investigated and resolved. **Florida's complaint procedures are outlined in the Florida State Plan under IDEA, Part B.** The following description expands on the procedures found in the state plan and provides detailed information regarding the various options and activities related to complaint resolution.

An organization or an individual may file a complaint on behalf of one or more students with disabilities, or one or more parents of students with disabilities. The complaint must be written and signed; must include a statement that a public agency has violated a requirement of IDEA, Part B, and/or the related Florida statutes or rules; and must describe the facts on which the statement is based. The alleged violation must have occurred within the year prior to the date of the DOE's receipt of the written complaint, unless a longer period is necessary because the violation is continuing, or because the complainant is requesting compensatory services for a violation that occurred no more than three years prior to the date of the DOE's receipt of the written complaint.

MEDIATION

Upon receipt of the formal complaint, bureau staff will offer mediation to both parties prior to the initiation of an inquiry. If either party refuses the offer, then the formal complaint process will begin as described below. However, the complainant and the district/agency always have the option to request a formal mediation at any time during

Paper Number: FY 2000-6

April 2000

Division of Public Schools
and Community Education
Bureau of Instructional Support
and Community Services

Refer Questions To:
Iris Anderson or Margot Palazesi
(850) 488-1216, Suncom 278-1216

FLORIDA
Department
of Education

TECHNICAL ASSISTANCE PAPERS are produced periodically by the Bureau of Instructional Support and Community Services to present discussion of current topics. The TA Papers may be used for inservice sessions, technical assistance visits, parent organization meetings, or interdisciplinary discussion groups. Topics are identified by state steering committees, district personnel, and individuals, or from program compliance monitoring.

the formal complaint inquiry process, regardless of the level of resolution. If the parties agree, the complaint inquiry will be put in abeyance during the mediation process. Should the mediation result in an agreement relative to the issues identified in the complaint, the complaint inquiry will be terminated and written confirmation will be sent to the parties. If the mediation does not result in an agreement, or the agreement does not address all the issues of the complaint, the complaint inquiry will continue regarding any issues not resolved.

LEVELS OF ACTION

The DOE has developed three levels of action to address formal complaints. These are

1. an Early Resolution Agreement
2. an inquiry resulting in a Bureau Resolution Determination
3. an inquiry resulting in a Commissioner's Order

Responsibility for determining the appropriate level of resolution rests with the bureau's complaint planning team. Upon recept of a formal complaint by the bureau, the planning team will convene and review the formal complaint letter. Each letter, and any other available information, will be reviewed for the following considerations:

- the number of issues
- the complexity of the issues
- whether the issues focus on a single child or a systemic concern
- whether the school district/agency may consider the allegations to be indisputable
- the possibility that compensatory education and/or adjustments in state or federal funding could be required as a corrective action

Based on these considerations, the planning team will determine the level of resolution to be implemented by the bureau. However, the complaint planning team will reserve the right to resolve any formal complaint at the Commissioner's Order level if, upon further consideration of the documentation and information provided, the team deems it necessary.

Regardless of the resolution level, all inquiries and resolutions must be completed within 60 days after the receipt of the formal complaint. All agreements or requirements for corrective actions are binding on the district/agency and are enforceable by the DOE. The bureau has the responsibility for ensuring that agreements or requirements for corrective actions are adhered to and that any required follow-up activities are carried out. Issues arising from the implementation of agreements or requirements for corrective actions, or lack thereof, will be treated as formal complaints subject to the appropriate level of resolution.

Early Resolution Agreement

Prior to beginning a formal complaint inquiry, bureau staff will offer the district/agency and the complainant an opportunity to resolve the issues at the local level. If a resolution can be reached, the bureau will not conduct a formal inquiry. The following steps will be followed when the complaint planning team has determined that this option is appropriate:

1. The bureau will notify the complainant and the school district/agency of its receipt of the complaint and seek clarification of the issues as necessary.

2. The bureau will provide the district/agency and the complainant with a formal statement of the issues and offer the district/agency an opportunity to resolve the complaint without a formal inquiry by bureau staff.

3. If the district/agency and the complainant agree to resolve the issues at the local level, the district/agency must provide the bureau with the following information within 15 calendar days after its receipt of the formal statement of the issues from the bureau:

   - a record of all contacts with the complainant and/or parent(s)
   - a statement explaining the proposed resolution
   - an agreement that indicates that the complainant and the district/agency have agreed to the resolution and that explains the details of the resolution. The agreement must indicate that it is binding on the complainant and/or parents and the district/agency, who acknowledge their understanding of, and consent to, the agreement by their signatures on it.

4. Upon receipt of the signed agreement, the bureau will review the agreement and notify the district/agency of approval or any additional action needed on the part of the district/agency.

   Parameters of the Early Resolution Agreement include the following:

   - No inquiry will be conducted if an agreement that resolves the complaint is approved by the bureau.
   - The complainant must agree to the use of this level of resolution.
   - If the parties cannot reach a resolution via this level, the bureau will proceed with an inquiry at the next level.
   - The bureau will maintain the responsibility for ensuring that the agreement resolves all the issues contained in the complaint and is consistent with applicable state and federal requirements.

Bureau Resolution Determination

The bureau will implement the following steps when the complaint planning team has determined that this option is appropriate:

1. Notify the complainant and the school district/agency of its receipt of the complaint, seek clarification of the issues as necessary, and offer mediation.

2. If mediation is declined, notify the complainant and the school district/agency in writing of its receipt of the complaint; the level at which the complaint will be addressed; the specifics of the issue(s); and the status of the complaint with respect to mediation or an Early Resolution Agreement, as appropriate.

3. Conduct an inquiry, making a request for information and supporting documentation from the district/agency and complainant, as necessary. The bureau may interview or survey individuals or make an on-site visit, if deemed appropriate.

4. Prepare a draft report of the Findings of Fact for review by both parties. The parties will be given an opportunity to submit additional information if there are any errors in or substantive omissions from the Findings of Fact.

5. Prepare a written report that includes findings, conclusions, and any appropriate corrective actions or recommendations, for approval by the chief of the Bureau of Instructional Support and Community Services.

[Note: If compensatory education or adjustments to federal or state funding are indicated based on the conclusions, an Order will be prepared for the Commissioner of Education's approval (see below), unless the district/agency has offered, in writing, to provide compensatory education or to make fund adjustments.]

6. Forward a copy of the Bureau Resolution Determination to the complainant and district/agency.

Commissioner's Order

The bureau will implement the following steps when the complaint planning team has determined that this option is appropriate:

1. Notify the complainant and the district/agency of its receipt of the complaint, seek clarification of the issues, and offer mediation.

2. If mediation is declined, notify the complainant and the school district/agency in writing of its receipt of the complaint; the level at which the complaint will be addressed; the specifics of the issue(s); and the status of the complaint with respect to mediation or an Early Resolution Agreement, as appropriate.

3. Conduct an inquiry, make a request for information and supporting documentation from the district/agency and complainant, as necessary. The bureau may interview or survey individuals, or make an on-site visit, if deemed appropriate.

4. Prepare a draft report of the Findings of Fact for review by both parties. The parties will be given an opportunity to submit additional information if there are any errors in or substantive omissions from the Findings of Fact.

5. Prepare a written report that includes findings, conclusions, and any appropriate corrective actions or recommendations, for approval by the Commissioner of Education.

6. Forward a copy of the Commissioner's Final Order to the complainant and district/agency.

TIMELINES AND EXTENSIONS

When there are extenuating circumstances, the bureau will extend the 60-day timeline for completion of the complaint resolution activity. If the 60-day timeline is extended, the bureau will notify both parties of the extension in writing. Examples of the circumstances that may necessitate the extension of the complaint resolution activities are as follows:

- A request by the complainant to review information submitted by the district/agency, or a request by the complainant to submit additional information.
- A request by the complainant to add one or more issues not clearly described or included in the original formal complaint.
- School district/agency holiday schedules that will result in the limited availability of personnel who have information relevant to the inquiry.
- Inclement weather or other such emergencies that require that schools or offices be closed (e.g., hurricanes or fires).

RELATIONSHIP TO DUE PROCESS HEARINGS

If a written complaint is received that is also the subject of a due process hearing or that contains multiple issues of which one or more are part of that hearing, the DOE will place in abeyance any part of the complaint that is being addressed in the due process hearing, until the conclusion of the hearing. However, any issue in the complaint that is not a part of the due process action will be resolved using the time limits and actions described above.

If an issue is raised in a written complaint that has previously been decided in a due process hearing involving the same parties, the DOE will inform the complainant that the decision of the administrative law judge is binding. If a complaint alleges that a district/agency has failed to implement a due process decision, that complaint will be addressed using the time limits and actions described above.

REQUESTS FOR REVIEWS

In the past, a complainant could request that the U.S. Department of Education, Office of Special Education Programs, review the Florida DOE's decision. As of July 1, 1999, that option is no longer available and the Florida DOE's decision (either a Bureau Resolution Determination or a Commissioner's Order) is final. However, parties who have filed complaints retain the option of requesting a due process hearing regarding any issue, even issues that have been addressed as part of the complaint inquiry process.

LEA COMPLAINT INQUIRIES

In addition to the DOE's three options for complaint resolution, the complainant has the option of filing a formal complaint with the local education agency (LEA). The superintendent/designee or responsible agency official shall carry out the following activities relative to the complaint:

1. Within five days of its receipt of the complaint letter, notify the DOE that the complaint has been received.
2. During the initial contact with the complainant, offer mediation and seek to clarify the issues.
3. Provide to the complainant written documentation confirming the receipt of the complaint letter, the nature of the issues, and the decision about mediation. Copies of this documentation will be provided to the DOE and retained in the official files of the district/agency.
4. Prepare a written response that is signed by the superintendent/agency official and that specifically states background information; findings of fact; conclusions; corrective actions, if appropriate; the basis for the final decision; and a statement about the right to appeal to the DOE.
5. Provide copies of the written response to the complainant and the DOE. A copy of the district/agency's entire official file shall accompany the DOE's copy of the response. The written response must be completed within 25 days of the district/agency's receipt of the complaint letter and mailed to the complainant and the DOE.

If a complainant is not satisfied with the district/agency's response, or if the district/agency does not respond to the complaint letter as required above, a written appeal should be made to the DOE within 10 days of the date the response was posted or due. The written appeal must include a statement of what is in dispute and the education remedy being requested. The DOE will conduct an inquiry into the issues presented in the appeal or the issues raised in the original complaint, if the district did not respond as required. The Bureau Resolution Determination or Commissioner's Order will specify what correction actions are necessary, if any.

If the district/agency fails or refuses to comply with its findings, a Bureau Resolution Determination, or a Commissioner's Order, sanctions may be imposed. Sanctions may include, but are not limited to, the cessation of funds under IDEA, Part B, or nonapproval of future applications for such funds until the district/agency demonstrates that the violation has been corrected. Before funds are withheld, the district/agency will be notified in writing of its right to request a hearing.

A recipient of IDEA, Part B, funds may request a hearing if it is alleged that any action of the Florida Department of Education violated a state or federal statute or regulation when

- ☐ ordering the repayment of misspent or misapplied federal funds
- ☒ terminating further assistance for an approved project

Any such hearing requested will be conducted in compliance with the appropriate federal and state requirements.

U.S. Department of Education
Office of Educational Research and Improvement (OERI)
National Library of Education (NLE)
Educational Resources Information Center (ERIC)

NOTICE

REPRODUCTION BASIS

☑ This document is covered by a signed "Reproduction Release (Blanket) form (on file within the ERIC system), encompassing all or classes of documents from its source organization and, therefore, does not require a "Specific Document" Release form.

☐ This document is Federally-funded, or carries its own permission to reproduce, or is otherwise in the public domain and, therefore, may be reproduced by ERIC without a signed Reproduction Release form (either "Specific Document" or "Blanket").